

BEFORE THE PUBLIC UTILITIES COMMISSION OF
THE STATE OF CALIFORNIA



FILED
5-03-16
04:59 PM

Joint Application of Charter Communications, Inc.; Charter Fiberlink CA-CC0, LLC (U6878C); Time Warner Cable Inc.; Time Warner Cable Information Services (California), LLC (U6874C); Advance/Newhouse Partnership; Bright House Networks, LLC; and Bright House Networks Information Services (California), LLC (U6955C) for Expedited Approval of the Transfer of Control of both Time Warner Cable Information Services (California), LLC (U6874C) and Bright House Networks Information Services (California), LLC (U6955C), to Charter Communications, Inc., and for Expedited Approval of a pro forma transfer of control of Charter Fiberlink CA-CCO, LLC (U6878C).

Application No. A.15-07-009

NOTICE OF EX PARTE COMMUNICATION

MELISSA W. KASNITZ
Legal Counsel
Center for Accessible Technology
3075 Adeline Street, Suite 220
Berkeley, CA 94703
Phone: 510-841-3224 x2019
Email: service@cforat.org

May 3, 2016

Pursuant to Rule 8.3.2 of the Commission's Rules of Practice and Procedure, the Center for Accessible Technology (CforAT) hereby gives notice of the following *ex parte* communication: On May 3, 2016 from approximately 10:00-10:30 am. at the California Public Utilities Commission, 505 Van Ness Avenue, San Francisco, CA 94102, Melissa W. Kasnitz, CforAT's Legal Counsel, met with Jessica Hecht, Telecommunications Advisor to Commissioner Mike Florio. The communication was primarily in oral form, but CforAT's counsel also provided Ms. Hecht with an additional copy of the *ex parte* letter sent by CforAT to President Picker on April 19, 2016, and previously served on the service list on the same day. An additional copy of this letter is attached.

In addition to referencing the concern stated in the *ex parte* letter that CforAT's input in this proceeding had been overlooked in the PD, and that it should be incorporated into any final decision, CforAT noted the three most significant issues of concern to the disability community based on the merger. These issues are effective communication for people with disabilities, the need for improvements to any low-income broadband program that is adopted as part of approval of the proposed merger (including expanded eligibility and improved equipment offerings), and the need for improvements to public safety concerns focused on effective battery backup power. CforAT also addressed the needs of our constituency to have access to reliable and affordable voice service through the Lifeline program, and supported the provisions of the PD addressing Lifeline.

Respectfully submitted,

May 3, 2016

/S/
Melissa W. Kasnitz
Legal Counsel
Center for Accessible Technology
3075 Adeline Street, Suite 220
Berkeley, CA 94703
Phone: 510-841-3224 x2019
Email: service@cforat.org



3075 Adeline, Suite 220, Berkeley, CA 94703
510-841-3224 (Voice)
510-841-7956 (Fax)
<http://cforat.org>

April 19, 2016

President Michael Picker
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Re: A.15-07-009 (Charter/TWC Merger Application)

Dear President Picker:

I am writing to you as the Assigned Commissioner in the proposed Charter/Time Warner Cable merger application (A.15-07-009) to flag the failure of the pending Proposed Decision (PD), which was issued on April 12, 2016, to address, or even identify, multiple issues raised by the Center for Accessible Technology (CforAT) as the representative of disabled customers of the companies involved in the transaction. CforAT has been an active party throughout the proceeding, submitting testimony and briefing on behalf of our vulnerable constituency. One of our primary concerns has been the risk that the unique needs of this group would be overlooked by the merging companies. Now, we see that this risk has effectively come to pass as our concerns have been overlooked in the Proposed Decision.

The PD provides a detailed summary of the Applicants' overall position on the applicable provisions of the California Public Utilities Code,¹ but it gives no such summary of the protestors' position.² In its discussion and analysis of the various factors set forth in the applicable statutes, it cites several times to the "Joint Consumers' Protest,"³ filed at the outset of the proceeding but never to CforAT's testimony or briefing. At the same time, it provides numerous citations to the testimony submitted by Applicants and by ORA. Even in the most detailed section of analysis, addressing Section 854(c)(6), which includes a lengthy discussion of the Applicants' position, a substantial discussion of ORA's position, and an extended discussion of the Greenlining Institute's position, CforAT's contribution to the record is ignored.

¹ PD at pp. 21-25.

² The PD provides a heading for Protestors' Position and a placeholder for ORA, but no content, and no mention whatsoever of CforAT's position, or even participation. PD at p. 25.

³ The Joint Consumers' Protest was an early filing, submitted on August 7, 2015, on behalf of Greenlining, TURN, Center for Accessible Technology, and Common Cause. It stated the preliminary position of these parties, but did not include the detail later provided in testimony and briefing.

The only portions of the PD that mention CforAT's input at all are the section addressing mitigation measures and the section addressing public safety concerns. Even these two sections, however, fail to fully summarize, much less address, the issues raised by CforAT. The section that purports to summarize CforAT's proposals for mitigation⁴ completely excludes any mention of serious concerns regarding accessible communications for customers with disabilities, a subject that CforAT has raised in multiple proceedings before the Commission over a number of years and which was addressed at length in our testimony. It also fails to fully note CforAT's proposals regarding expanded eligibility for Charter's low-income broadband program (excluding CforAT's fallback position of adding households that include a person who receives SSDI) and additional mitigation measures noted in the Testimony of Dmitri Belser, which was properly incorporated into the record of the proceeding. Even those mitigation measures that are noted in the PD are not properly attributed, as the citations to CforAT's recommendations are all noted as "Ibid" or "Id" to comments of Stop the Cap!.⁵

The section of the PD addressing public safety concerns is similarly flawed, in that it only identifies a small number of the recommendations made by CforAT, not the full list set forth in our testimony. The subsequent discussion states that certain recommendations will be adopted, but provides no additional information on which ones, or why the ones that are not incorporated were left out.

Of course, CforAT intends to address these omissions in our upcoming comments on the Proposed Decision. However, the extent to which our input in the proceeding was simply excluded from discussion (or even recognition) in the PD cause us grave concern.

Our presumption is that our input was not excluded out of malice or out of any intent to deny service to vulnerable consumers with disabilities; rather, in light of the aggressive timeline for production of a PD and the size of the record, we expect that our input was simply overlooked. The result, however, is too familiar for the population we represent. If the Commission cannot adequately consider the needs of customers with disabilities, it sets the stage for the Applicants to similarly disregard this group, which struggles with connectivity and regularly finds itself on the wrong side of the digital divide.

In order to avoid a result that fails to take into consideration the needs of vulnerable customers with disabilities to have access to affordable and reliable service, low-income broadband, effective communication in formats that are accessible, and other provisions relevant to the pending merger, CforAT urges you and the assigned Administrative Law Judge to promptly revisit the PD to ensure that our input is fully acknowledged and that our recommendations are addressed.

⁴ PD at pp. 61-62.

⁵ *Id.* at footnotes 89-93.

Thank you for your consideration.

Sincerely,

/S/ Dmitri Belser

Dmitri Belser, Executive Director
Center for Accessible Technology

cc: Commissioner Mike Florio
Commissioner Carla J. Peterman
Commissioner Liane M. Randolph
Commissioner Catherine J.K. Sandoval
Administrative Law Judge Karl Bemederfer
Service List for A.15-07-009